

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOSHUA HOWARD,

Plaintiff,

v.

NEVIN WEBSTER and
AMY REID

Defendants.

ORDER

08-cv-500-slc

On November 21, 2008, this court denied plaintiff leave to proceed *in forma pauperis* on appeal in this action and certified that his appeal was not taken in good faith. Now the Court of Appeals for the Seventh Circuit has issued an order dated February 20, 2009, holding that this court erred in its bad faith determination and instructing the court to assess an initial partial filing fee for the appeal. From the trust fund account statement plaintiff submitted with his notice of appeal, I find that plaintiff owes \$6.28 as an initial partial payment of the fee for filing his appeal.

ORDER

IT IS ORDERED that no later than March 18, 2009, plaintiff is to submit a check or money order made payable to the clerk of court in the amount of \$6.28 as an initial partial payment of the \$455 fee for filing his appeal. The remainder of the fee is to be paid in monthly installments pursuant to 28 U.S.C. § 1915(b)(2).

Further, IT IS ORDERED that if, by March 18, 2009, plaintiff fails to pay the initial partial payment or explain his failure to do so, then I will advise the court of appeals of his noncompliance in paying the assessment so that it may take whatever steps it deems appropriate

with respect to this appeal. If plaintiff pays the initial partial payment as directed, however, the clerk of court must notify the court of appeals promptly and retransmit the record of this case to the court of appeals in accordance with that court's February 20 order.

Entered this 3rd day of March, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge